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Paper No. 11

DVA/PEC-IPD
2265 E. 220TH STREET
LONG BEACH CA 90810

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OFFICE OF PETITIONS

In re Application of :
Ishii et al. : DECISION ON PETITION
Application Number: 09/490114 :
Filing Date: 01/24/2000 :
Attorney Docket Number: :
P107156-09068 :

This is a decision in reference to the "PETITION UNDER 37 C.F.R. 1.182" filed on December 26, 2007, which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned on October 31, 2003, for failure to timely file a response to the non-final Office action mailed on July 30, 2003, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on December 2, 2004.

Petitioners assert that a Change of Correspondence Address was filed on January 18, 2002, but that the non-final Office action mailed on July 30, 2003, was subsequently mailed to the previous address of record due to Office error.

A review of the official record reveals the following:

1. On January 24, 2000, the application was filed. The application papers included, *inter alia*, an executed declaration stating the correspondence address was Nikaido, Marmelstein, Murray & Oram, LLP, Metropolitan Square, 655 Fifteenth Street, NW, Suite 330 - G Street Lobby, Washington, DC 20005-5701 (hereinafter "the Nikaido address") as the correspondence address. The declaration listed the attorneys of record as, *inter alia*, George E. Oram, Jr., Reg. No. 27,931, and Douglas H. Goldhush, Reg. No. 33,125.

2. On January 18, 2002 (postcard date) a status request and change of correspondence address were filed. Although the

original papers cannot be located in the original file, a draft copy was provided on December 26, 2007, showing that petitioners had requested that the correspondence address be changed to the address associated with Customer Number 004372.¹

3. On July 30, 2003, the non-final Office action was mailed to the Nikaido address.
4. On October 15, 2003 (postcard date), a status request was filed.
5. On May 4, 2004 (postcard date), a status request was filed.
6. On December 2, 2004, a Notice of Abandonment was mailed to the Nikaido address.
7. On December 21, 2004, the Notice of Abandonment was returned as undeliverable.
8. On October 28, 2005 (postcard date), a status request was filed.
9. On October 24, 2006 (postcard date), a status request was filed.
10. On November 7, 2006 (certificate of transmission date), a change of correspondence address signed by registered patent practitioner George E. Oram, Jr., Reg. No. 27,931 was filed.
11. On December 18, 2006 (certificate of transmission date), a change of correspondence address signed by registered patent practitioner George E. Oram, Jr., Reg. No. 27,931 was filed.
12. On December 26, 2007, the present petition and supporting documentation was filed.

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on July 30, 2003, to the Nikaido address² rather than the address associated with

¹ It is noted that the papers have the signature block for registered patent practitioner Douglas H. Goldhush, Reg. No. 33,125. Although the copy of the papers provided are unsigned, they contain a stamp indicating "SIGNATURE ON ORIGINAL". Additionally, a copy of a "STATUS LETTER REPLY" has been provided, showing receipt of the letter from practitioner Goldhush. As such, it is concluded that a signed status request and change of correspondence address were filed on January 18, 2002, but were lost after receipt in the USPTO. See also Note 2, infra.

² Although a copy of the original signed change of correspondence address filed on January 18, 2002, has not been provided, petitioners have provided the "STATUS LETTER

Customer Number 004372. As the error in mailing is due to an Office error, it is appropriate to remail the Office action mailed on July 30, 2003, to the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

Receipt of the revocation and power of attorney and change of correspondence address by the assignee filed on January 23, 2008, is acknowledged. All future correspondence will be mailed to the new correspondence address of record.

The address in the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address in the petition.

The application is referred to the Technology Center Technical Support Staff for remailing of the Office action mailed on July 30, 2003. The time period for reply to the Notice(s) will be reset to run from the date the Notice(s) are remailed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

Cc: ARENT FOX LLP
1050 CONNECTICUT AVE NW
SUITE 400
WASHINGTON DC 20036

REPLY" showing receipt of that letter. As the STATUS LETTER REPLY does not indicate that the letter does not indicate that the request is not of record, the showing of record is that the status letter, and the change of correspondence address, were the original, properly signed documents. See also Note 1, supra.



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/490,114	01/24/2000	Hidehiro Ishii	P107156-09068

CONFIRMATION NO. 6741

POWER OF ATTORNEY NOTICE



4372
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Date Mailed: 02/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/diwood/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/490,114	01/24/2000	Hidehiro Ishii	P107156-09068

52737
DVA/PEC-IPD
2265 E. 220TH STREET
LONG BEACH, CA 90810

CONFIRMATION NO. 6741
POA ACCEPTANCE LETTER



Date Mailed: 02/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/diwood/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199